

Westinghouse  
Savannah River Company  
Aiken, SC 29808

DEPT. OF TRANSPORTATION

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January 10, 2002

FSSD-SUD-2002-0011

Mr. Robert A. McGuire  
Associate Administrator For Hazardous Materials Safety  
DHM-1  
400 7th St., S.W.  
Washington, DC 20590-0001

Dear Mr. McGuire,

This petition for rulemaking addresses certain apparent regulatory inaccuracies found specifically in 49 CFR 172.203(c) and 172.324(a). On the one hand, 172.203(c) excepts a radioactive material described in accordance with 172.203(d) from identifying hazardous substances in parentheses on a shipping paper; while on the other hand 172.324(a) excepts a radioactive material labeled in accordance with 172.403 from marking the name of the hazardous substances in parentheses on a package. This proposed action would require the identification of a hazardous substance on a shipping paper and as a package marking, in parentheses, for radioactive materials subject to the regulatory references stated above when those materials also contain a reportable quantity as reflected in Appendix A to §172.101 Table 1.

Suggested text of the proposed rule or amendment is as follows:

**172.203(c) Hazardous substances.**

(1) Except for Class 7 (radioactive) materials, **not subject to Table 1 Appendix A to §172.101**, described in accordance with paragraph (d) of this section, if the proper shipping name for a material that is a hazardous substance does not identify the hazardous substance by name, the name of the hazardous substance must be entered in parentheses in association with the basic description. **Class 7 (radioactive) materials containing a hazardous substance subject to Table 1 to Appendix A to §172.101 must identify those hazardous substances in parentheses in association with the basic description.** If the material contains two or more hazardous substances, at least two hazardous substances, including the two with the lowest reportable quantities (RQs), must be identified. For a hazardous waste, the waste code (e.g., D001), if appropriate, may be used to identify the hazardous substance.

**172.324 Hazardous substances in non-bulk packagings.**

For each non-bulk package that contains a hazardous substance--

(a) Except for packages of radioactive material, **not subject to Table 1 Appendix A to §172.101**, labeled in accordance with Sec. 172.403, if the proper shipping name of a material that is a hazardous substance does not identify the hazardous substance by name, the name of the hazardous substance must be marked on the package, in parentheses, in association with the proper shipping name. **Class 7 (radioactive) materials containing a hazardous substance subject to Table 1 to Appendix A to §172.101 must identify those hazardous substances in parentheses in association with the basic description.** If the material contains two or more hazardous substances, at least two hazardous substances, including the two with the lowest reportable quantities (RQs), must be identified. For a hazardous waste, the waste code (e.g., D001), if appropriate, may be used to identify the hazardous substance.

The petitioner believes this proposed action to be in the interest of the environment and general public as the fundamental premise of the regulations is safety. Much of this safety is achieved through complete and accurate communications. Requiring the identification of hazardous substances contained in Class 7 (radioactive) materials subject to Table 1 to Appendix A to §172.101 would more accurately describe those materials, improving communication and thereby safety in normal and emergency situations.

Current regulations except Class 7 (radioactive) material from the identification of hazardous substances, by name in parentheses, if described in accordance with 172.203(d) and package marking for hazardous substances, by name in parentheses, if labeled in accordance with 172.403. This proposed action would correct these apparent inaccuracies by requiring the identification of hazardous substances subject to Table 1 to Appendix A to §172.101 contained in Class 7 (radioactive) materials.

Fiscal cost to society for implementation of the proposed action would be minimal, while the benefit of the proposed action would be protection of the general public and environment through enhanced and accurate communication.

No change from existing practices would be effected by implementation of this proposed action in regards to 49 CFR 106.31(c)(1) through 106.31(c)(4).

The impact of the proposed action on the natural and social environments would be protection of the general public and environment through enhanced and accurate communication.

Sincerely,

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Christian W. Solum  
Principal Hazardous Material Specialist